

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Laurie E. Gathman et al.
Serial No.:	:	09/971,141
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Filed	:	October 4, 2001
	:	
Art Unit	:	3629
	:	
Examiner	:	Jonathan P. Ouellette
	:	
Att. Docket	:	US010496
	:	
Confirmation No.	:	4048

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Response to Notification of Non-Compliant**

**Appeal Brief under 37 CFR 41.37**

Sir:

In response to the Notification mailed September 12, 2006, the previously filed Appeal Brief was amended to fully comply with 37 CFR 41.37. It is enclosed for entry into the record in the above-identified application.

Any additional fees, including extension of time, associated with this application should be charged to Deposit Account No. 14-1270.

Respectfully submitted,

By           /LARRY LIBERCHUK/            
Larry Liberchuk, Reg. No. 40,352  
Senior IP Counsel  
Philips Electronics N.A. Corporation  
914-333-9602

## **APPEAL BRIEF**

### **I. REAL PARTY IN INTEREST**

The real party in interest is Koninklijke Philips Electronics N.V. corporation, the assignee of record.

### **II. RELATED APPEALS AND INTERFERENCES**

Appellant is not aware of any pending appeals, judicial proceedings, or interferences which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

### **III. STATUS OF CLAIMS**

Claims 1-21 are rejected.

### **IV. STATUS OF AMENDMENTS**

An after-final amendment under 37 CFR 1.116 was not filed in response to the Final Office Action. All amendments prior to the Final Office Action were entered into the record.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention, as recited in independent claim 1, is related to a method of doing business in a public facility in communication with at least one patron through a virtual ticket device (“VTD”). See Figure 1 and page 12, lines 10-14 of the specification. The VTD is detected with a communication range of a VTD interface. See page 18, lines 2-12. The identity and location of the detected VTD are determined, and information is selectively provided to the VTD based on the identity and location. See page 18, lines 16 – page 19, line 3. A VTD is a device that is capable of receiving a downloaded virtual electronic ticket. See page 22, lines 6-18. Further, a ticket is a bearer instrument that is usually redeemed for entry into a facility.

The present invention, as recited in independent claim 12, is related to a transceiver for communicating with virtual ticket devices in a public facility having at least one status collector. See page 15, lines 13-14. A database is provided in communication with the status collector for storing collected status information. Status information is received for storage in the database. A request is received for status information. The requested status information is transmitted to at least one VTD. See page 27, lines 2-15; Page 29, lines 13-22; Page 31, line 24-Page 32, line 7.

The present invention, as recited in independent claim 18, is related to a public-facility information guide. An electronic ticket control system processes public-facility information in order to formulate information messages. At least one access point is in communication with the electronic ticket control system, the access point being capable of communicating with a public-facility patron virtual ticket device. At least one status collector is in communication with the electronic ticket control system for collecting and reporting status information. See page 27, lines 2-15; Page 29, lines 13-22; Page 31, line 24-Page 32, line 7.

The present invention, as recited in independent claim 21, is related to an electronic ticket control system. A message database stores information-message data. A control program directs a processor of the electronic ticket control system to formulate an information message using the information message data, wherein the information messages are formulated in response to information requests. An access point is coupled to transmit information messages formulated by the processor to a public-facility patron virtual ticket device. A status database stores status information collected by a status collector, wherein the processor uses the stored status information in formulating information messages. See page 27, lines 2-15; Page 29, lines 13-22; Page 31, line 24-Page 32, line 7.

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

- 1) Whether claims 1-4, 9-16, and 18-21 are properly rejected under 35 U.S.C. §102(e) as being anticipated by US 2003/0061303 (Brown).
- 2) Whether claim 7 is properly rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of US 2004/0263494 (Poor).
- 3) Whether claims 5, 6, 8 and 17 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Brown.

#### **VII. ARGUMENT**

- 1) Claims 1-4, 9-16, and 18-21 are not properly rejected under 35 U.S.C. §102(e) as being anticipated by US 2003/0061303 (Brown).

With reference to Appellant's claim 1, it is respectfully submitted that Brown fails to teach or suggest several elements of the present invention.

Brown relates to a method, system, and program for providing information on proximate events. In particular, Brown provides a method, system, and program for transmitting information to a wireless device. See paragraph [0013]. A determination is made of a current location of the wireless device and whether the current location is within a proximity to a target location. *Id.* If the current location is within the proximity to the target location, then information is transmitted to the wireless device on *offerings* available at the target location. *Id.* The wireless device may be a personal digital assistant (“PDA”) that is capable of receiving wireless markup language (“WML”). See paragraphs [0009], [0010].

The primary focus of Brown relates to a Personal Information Manager (“PIM”). See paragraph [0039]. The PIM program may enable calendar or scheduler operations. A calendar program enables one or more users to record and organize events and appointments. A scheduler program enables a group of colleagues to schedule meetings and other appointments, and share schedule and calendar information. *Id.* Through the client PIM software, a user could schedule a calendar event and create a scheduled event record. See paragraph [0044]. A commercial entity may broadcast advertisement on goods and services to PIM database users within a proximity to a retail outlet of the commercial entity using a unicast broadcasting program 526 and an eligible user list 528 (FIG. 10). See paragraph [0064]. A message schedule 530 is provided for each commercial entity submitting unicast broadcasts. *Id.* Brown further sets forth an example of an amusement park that may transmit information to park visitors on the availability of events of interest. See paragraph [0071].

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to

produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

In short, Brown fails to disclose the claimed virtual ticket device (“VTD”). A virtual ticket device must be capable of receiving a virtual electronic ticket. There is simply no disclosure that a PDA of Brown may be capable of receiving a virtual electronic ticket. Mere scheduling is not a ticket. One using the Brown PDA could potentially schedule restaurant reservations within an amusement park, but could not purchase a virtual ticket for entry into the park itself.

Moreover, because Brown fails to set forth a VTD in the first instance, Brown therefore cannot disclose any of the following: detecting that a VTD is within communication range of the VTD interface; determining the identity and location of the detected VTD; and selectively providing information to the identified VTD on the basis of the determined identity and location.

Independent claims 12, 18 and 21 contain features that are substantially analogous to those of claim 1, as discussed above. Appellant essentially repeats the same argument as above with reference to claim 1 and asserts that claims 12, 18 and 21 are not anticipated by the prior art of record for the same reasons as claim 1. Appellant, therefore, respectfully submits that the

final rejection of claims 12, 18 and 21 lacks factual and legal basis and should be reversed.

Claims 12, 18 and 21 should be passed to issue.

Claims 2-4, 9-11, 13-16, 19 and 20 depend, either directly or indirectly, from independent claims 1, 12 and 18 and thus incorporate novel and non-obvious features thereof, in addition to further limitations. Therefore, dependent claims 2-4, 9-11, 13-16, 19 and 20 are patentably distinguishable over the prior art of record for at least the same reasons as independent claims 1, 12 and 18. Appellant, therefore, respectfully submits the final rejection of claims 2-4, 9-11, 13-16, 19 and 20 lacks factual and legal basis and should be reversed. Claims 2-4, 9-11, 13-16, 19 and 20 should be passed to issue.

2) Claim 7 is not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of US 2004/0263494 (Poor).

With respect to claim 7, which indirectly depends from claim 1, Appellant essentially repeats the above arguments to submit that Poor is not relied upon in the Final Office Action to cure the deficiencies in Brown. Therefore, Appellant's claim 7 is not rendered obvious by the prior art of record. Withdrawal of the rejection is respectfully requested.

3) Claims 5, 6, 8 and 17 are not properly rejected under 35 U.S.C. §103(a) as being unpatentable over Brown.

With respect to claims 5, 6, 8 and 17, which indirectly depend from claims 1 and 12, Appellant essentially repeats the above arguments to submit that Brown is not relied upon in the Final Office Action to cure the deficiencies in independent claims 1 and 12, as discussed above.

Therefore, Appellant's claims 5, 6, 8 and 17 are not rendered obvious by the prior art of record. Withdrawal of the rejection is respectfully requested.

### **VIII. CONCLUSION**

In light of the above, Appellant respectfully submits that the rejections of claims 1-21 are in error. The prior art references relied upon in the Final Office Action do not anticipate or render obvious Appellant's claims. Thus, Appellant respectfully submits that the rejections are in error, legally and factually, and must be reversed.

Respectfully submitted,

By           /LARRY LIBERCHUK/            
Larry Liberchuk, Reg. No. 40,352  
Senior IP Counsel  
Philips Electronics N.A. Corporation  
914-333-9602



**IX. CLAIMS APPENDIX**

1. In a public facility in communication with at least one patron through a virtual ticket device (VTD) interface, a method of doing business, comprising:
  - detecting that a VTD is within communication range of the VTD interface;
  - determining the identity and location of the detected VTD; and
  - selectively providing information to the identified VTD on the basis of the determined identity and location.
2. The method of doing business of claim 1, wherein the information provided to the VTD includes a description of the determined location.
3. The method of doing business of claim 1, wherein the public facility maintains a database of estimated waiting times at selected facilities, and wherein the information provided to the VTD includes information relating the estimated waiting time for at least one facility.
4. The method of doing business of claim 3, wherein the request transmitted from the VTD includes a maximum-wait time, and further comprising the step of determining whether the estimated waiting time at the at least one facility is less than the maximum-wait time, and wherein the information relating to the estimated waiting time is sent upon determining that the estimated waiting time is less than the maximum-wait time.
5. The method of doing business of claim 3 wherein the facility is a public toilet.

6. The method of doing business of claim 3 wherein the facility is a concession stand.
7. The method of doing business of claim 6 further comprising the steps of allowing discounts when a holder of the VTD makes purchases at the concession stand and communicating information about the allowed discount to the VTD.
8. The method of doing business of claim 3 wherein the facility is an aid station.
9. The method of doing business of claim 1, further comprising the step of storing in memory the determined VTD identity and location.
10. The method of doing business of claim 9, further comprising the steps of:
  - determining that the VTD has passed an entry point at the public facility;
  - determining subsequently that the VTD has passed an entry point of the public facility for at least a second time; and
  - providing automatically to the VTD information including a description of the stored location.
11. The method of doing business of claim 10, wherein a plurality of VTD locations have been stored, and wherein the description automatically provided describes the first stored VTD location.

12. In a public facility including a transceiver for communicating with virtual ticket devices, said facility having at least one status collector, a method of doing business, comprising:

providing a database in communication with the status collector for storing collected status information;

receiving status information for storage in the database;

receiving a request for status information; and

transmitting the requested status information to at least one VTD.

13. The method of doing business of claim 12, wherein the request for status information is received from a VTD.

14. The method of doing business of claim 12, wherein the request for status information is generated automatically.

15. The method of doing business of claim 14, wherein the automatically-generated request is generated upon determining that the VTD has relocated from a first location to a second location.

16. The method of doing business of claim 15, wherein the automatically-generated request is generated upon determining that an event taking place in the public facility has ended.

17. The method of doing business of claim 13, wherein the status collector measures the rate at which vehicles are leaving a parking area associated with the public facility.

18. A public-facility information guide, comprising:

an electronic ticket control system for processing public-facility information in order to formulate information messages;

at least one access point in communication with the electronic ticket control system, the access point being capable of communicating with a public-facility patron virtual ticket device; and

at least one status collector in communication with the electronic ticket control system for collecting and reporting status information.

19. The information guide of claim 18, wherein the status collector collects crowd-density information.

20. The information guide of claim 18, wherein the status collector collects waiting time information.

21. An electronic ticket control system, comprising:

a message database for storing information-message data;

a control program for directing a processor of the electronic ticket control system to formulate an information message using the information message data, wherein the information messages are formulated in response to information requests;

an access point coupled to transmit information messages formulated by the processor to a public-facility patron virtual ticket device; and

a status database for storing status information collected by a status collector, wherein the

processor uses the stored status information in formulating information messages.

**X. EVIDENCE APPENDIX**

None.

**XI. RELATED PROCEEDINGS APPENDIX**

None.